IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 13484 of 2004

Between:

Dr.S.Santha Kumari, W/o S.Rama Mohan,
First Year P.G.Dimploma Course in Pathology,

Department of Pathology, S.V.Medical College,
Tirupathi, Chittoor District

..... PETITIONER

AND

1 NTR University of Health Sciences, Vijayawada, rep.by its Registrar
2 The Principal, S.V.Medical College, Tirupathi, Chittoor District
3 The Government of Andhra Pradesh, rep.by its Secretary, Health Medical and Family Welfare Department, Secretariat, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus declaring the action of the respondents in not considering the case of the petitioner for vacant seat in DDVL course in the second respondent College as illegal, improper, unjust, arbitrary and contrary to law and further direct the respondents to admit the petitioner into DDVL Course as an in service candidate which is vacant in the second respondent college as was done in the case of Dr.Vissa Santhi as per the judgment of this Hon'ble Court in WP No.19935 of 2002 dated 19-10-2002.

Counsel for the Petitioner:MR.KAMBHAM MADHAVA REDDY

Counsel for the Respondent No.3: GP FOR MEDICAL & FAMI.WELFARE

Counsel for the Respondent No.1: DR. Y.PADMAVATHI, Standing Counsel for NTR University

The Court at the stage of admission made the following ORDER:

The petitioner, who is working as Civil Assistant Surgeon at Community Health Center, Rajampet, applied for the Post Graduate entrance examination for the academic year 2004-2005 as per the notification issued by the first respondent-NTR University of Health Sciences, Vijayawada. Out of 8 seats of DDVL course available in Sri Venkateshwara University area, one seat was earmarked being 15% to service candidates at Kurnool Medical College, Kurnool. The said seat was allotted to 1315 rank holder, who is meritorious candidate than the petitioner. During the course of third counselling, she opted for the vacant seat of DDVL Course at the second respondent-S.V.Medical College, Tirupathi under non-service quota with a request to treat the said seat under service quota. As the respondents did not consider her request, she has not opted for Diploma Course in Pathology (DCP) seat in the second respondent College in the left over pre and para clinical selections for service candidates. On completion of the admissions into PG Medical Courses for the academic year 2004-2005 as per the schedule and directions issued by the Medical Council of India, since the candidate, who took admission in the DDVL course under service quota has not joined, the petitioner made a request to the respondents to accommodate her in DDVL Course but her request was not considered. Accordingly, she joined in DCP on 14-06-2004 and completed one month in the said course and by continuing the same, she filed the present writ petition for a mandamus to admit her into DDVL course as an in-service candidate as the seat was vacant in the second respondent college, as was done in the case of Dr Vissa Santhi as per the orders of this Court in WP.No.19935 of 2002, dated 19-10-2002.

The first respondent-University has filed counter-affidavit contending that as per the regulations of the University, once the admissions into PG Medical courses for the academic year

2004-2005 is over, the vacancy that arises on or after the last date of admission shall not be filled and in the light of the directions issued by the Apex Court in **SHAFALI NANDWANI v. STATE OF HARYANA** since admissions were closed on 31-05-2004, the petitioner's request for allotment to the vacant seat in DDVL Course at second respondent college cannot be considered.

The learned counsel for the petitioner reiterated the same and contends that when the seat fell vacant, the petitioner is entitled to be considered for admission in the light of the orders passed by this Court in WP.No.19935 of 2002, dated 19-10-2002. In the said writ petition, this Court observed that "the case of the petitioner case was not considered on the ground that she is a non-local candidate with reference to that area" and held that "the rejection of the claim of the petitioner may not be in accordance with law and the question of rejection of the claim of a non-local candidate would arise only if an eligible local candidate is available and the respondents cannot permit a seat in the post-graduate medical course to go waste."

On the other hand, learned counsel for the first respondent University contended that when the petitioner's request to consider her case for admission into DDVL Course has not been accepted, she opted for DCP seat in the second respondent College and prosecuting her studies and therefore, it is not open for her to contend that she is entitled for the vacant seat.

It is not in dispute that Regulation 12 of the Regulations for admission into Postgraduate Medical Courses for the year 2004-2005 clearly envisages that admissions shall be closed on 31-05-2004 and any vacancy that arises on or after the date of closure of admissions shall not be filled. In (1) supra, the Apex Court held that a clause in the prospectus makes it clear that there would be no change in the subject or readmission into a different course once the last date of admission was over and permitting the candidate to take admission in a course for the subsequent academic session would not only be a contravention of the prospectus but would also amount to an increase in the permissible seats for post graduate students in the course for the subsequent year is impermissible under Regulation 10(A) of the Medical Council of India Regulations on Graduate Medical Education, 1997.

In the present case, the petitioner opted for a seat in DCP course in the second respondent College and after prosecuting the said course for one month,

she moved this Court by way of present writ petition. Even during the third counselling, the petitioner's request for admission into DDVL course as in service candidate was not accepted and she got admitted into DCP course. If any change is permitted, the seat, in which, the petitioner got admitted shall go waste. In view of the same and since the admission process has already been completed, I do not see any merit in the submission made by the learned counsel for the petitioner that the petitioner is entitled to be considered as an in-service candidate in the vacant seat of DDVL course at the second respondent College.

The writ petition is accordingly dismissed. No costs.

25th AUGUST, 2004.

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To

1 The Registrar, NTR University of Health Sciences, Vijayawada.
2 The Principal, S.V.Medical College, Tirupathi, Chittoor District
3 The Secretary, Government of Andhra Pradesh, Health Medical and Family Welfare Department, Secretariat, Hyderabad

4 Two CCs to the Government Pleader for Medical, Health and Family Welfare, A.P.High Court Buildings, Hyderabad.(OUT)

5 Two CD copies.